

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PATRICK DELIA,

Plaintiff,

- against -

JOHN E. POTTER,

Defendant.

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ORDER

CV 03-3367 (DRH) (JO)

JAMES ORENSTEIN, Magistrate Judge:

The defendant's application for an order compelling the plaintiff to submit to a psychiatric examination, Docket Entry ("DE") 72, is granted. Notwithstanding the arguments submitted in the plaintiff's response, DE 74, I find that the plaintiff has alleged that the defendant is responsible for causing him to require psychiatric care and intends to introduce the testimony of his treating psychiatrist and psychologist. Accordingly, he has sufficiently placed his mental state in issue to require that, in fairness, the defendant have an opportunity to have its chosen expert examine the plaintiff.

I therefore order plaintiff to submit to a psychiatric examination by Dr. Mark Mills at the office of the United States Attorney in Central Islip, New York, at a mutually agreeable date and time. The defendant's counsel is directed to serve a copy of this order on the plaintiff.

SO ORDERED.

Dated: Central Islip, New York
November 18, 2005

/s/ James Orenstein
JAMES ORENSTEIN
U.S. Magistrate Judge